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property taken necessary to constitute grand larceny in subsequent part of instruction, charging that larcenous acts at different times, if pursuant to a single impulse, constitute but one offense, was not error.

**12. Larceny (§ 65\*)—Household Articles—Grand Larceny—Sufficiency of Evidence.**—Evidence held to sustain conviction of domestic servant for grand larceny of household articles.

Error to Hustings Court of Petersburg.

Frances West was convicted of grand larceny, and she brings error. Affirmed.

*H. M. Smith, Jr.*, of Richmond, and *Gilliam & Gilliam*, of Petersburg, for plaintiff in error.

*The Attorney General*, for the Commonwealth.

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NATIONAL SURETY CO. et al. v. COMMONWEALTH ex rel.  
WESTINGHOUSE ELECTRIC & MFG. CO.

June 12, 1919.

[99 S. E. 657.]

**1. Appeal and Error (§ 1232\*)—Supersedeas Bond—Judgment “Affirmed.”**—Judgment is “affirmed” within a supersedeas bond conditioned to satisfy it in such event to the extent that it remains unchanged by an amended judgment on appeal, authorized by Code 1904, § 3485.

[Ed. Note.—For other definitions, see Words and Phrases, First and Second Series, Affirm.]

**2. Appeal and Error (§ 1232\*)—Supersedeas Bond—Judgment “Affirmed.”**—Judgment is “affirmed” as a whole, though part of it is released by plaintiff’s own act, within a supersedeas bond conditioned to satisfy it if affirmed, where it is reversed with condition that, if plaintiff elect to relinquish interest, it shall stand affirmed; and plaintiff so elects.

**3. Principal and Surety (§ 59\*)—Surety Companies—Law Governing.**—The general rule is that contracts of surety companies, which receive compensation for the risk assumed, are governed by the same principles as insurance contracts.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 14.]

**4. Pleading (§ 139\*)—Set-Off—Necessity of Pleading.**—A set-off of a judgment not put in issue by the pleadings nor set out in the

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

grounds of defense (Code 1904, §§ 3249, 3298) is not within the cognizance of the court.

[Ed. Note.—For other cases, see 16 Va.-W. Va. Enc. Dig. 1127.]

Sims, J., dissenting.

Error to Circuit Court, Loudoun County.

Action of debt by the Commonwealth, on the relation of the Westinghouse Electric & Manufacturing Company, against the National Surety Company and another. Judgment for plaintiff, and defendants bring error. Affirmed.

*Mason Manghum*, of New Bedford, Mass., *C. E. Nicol*, of Alexandria, and *J. J. Darlington*, *W. J. Lambert*, and *Frank J. Hogan*, all of Washington, D. C., for plaintiffs in error.

*Eppa Hunton, Jr.*, of Richmond, and *E. E. Garrett*, of Leesburg, for defendant in error.

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WILMOUTH'S ADM'R *v.* SOUTHERN RY. CO.

June 12, 1919.

[99 S. E. 665.]

**1. Railroads (§ 327 (9)\*)—Crossing Accidents—Contributory Negligence.**—Where a pedestrian familiar with a much-used crossing, and knowing that a train was due, after waiting for a freight train to pass, started to cross the next track without looking for other trains, and was killed by a fast train, recovery was barred by contributory negligence.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 594.]

**2. Railroads (§ 317\*)—Crossing Accidents—Speed Regulations.**—Running a train over a much-used crossing at a rate of speed in excess of that allowed by ordinance, without warning, constitutes negligence.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 128.]

**3. Railroads (§ 327 (3)\*)—Highway Crossings—Duty to Look and Listen.**—A pedestrian must look and listen before going upon a railroad track and use reasonable care to do so at a point where such action may be reasonably effective.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 592.]

**4. Railroads (§ 338\*)—Crossing Accidents—Last Clear Chance.**—Where a pedestrian, who failed to look, was struck by a train traveling at high speed over a much-used crossing, and train could not have been stopped even if the train crew had seen deceased, the doctrine of last clear chance was inapplicable.

[Ed. Note.—For other cases, see 17 Va.-W. Va. Enc. Dig. 255-6.]

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.